

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

BENEDICT MCGILL

**Plaintiff,**

vs.

CIVIL ACTION NO.

DAVON L. CARROLL

and

ESHAI CORP. d/b/a COURIER

DISTRIBUTION SYSTEMS

**Defendants.**

**DISCLOSURE STATEMENT FORM**

Please check one box:

☒ The nongovernmental corporate party, Eshai Corp d/b/a Courier Distribution Systems in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.

☐ The nongovernmental corporate party, \_\_\_\_\_ in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

June 21, 2017

Date



Signature

Counsel for: Defendants, Davon L. Carroll and Eshai Corp.

**Federal Rule of Civil Procedure 7.1 Disclosure Statement**

(a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file Two copies of a disclosure statement that:

(1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or

(2) states that there is no such corporation.

(b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:

(1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and

(2) promptly file a supplemental statement if any required information changes.

JS 44 (Rev. 06/17)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Benedict McGill

(b) County of Residence of First Listed Plaintiff Bucks

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Timothy A. Berger, Esquire of Paul, Flandreau & Berger, LLP  
320 West Front Street, Media, PA 19063. 610-565-4750

**DEFENDANTS**

Davon L. Carroll and Eshai Corp. d/b/a Courier Distribution Systems

County of Residence of First Listed Defendant Mercer County, NJ

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Marks O'Neill O'Brien Doherty & Kelly, PC  
1617 JFK Blvd, Suite 1010, Philadelphia, PA 215-564-6688

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                                   |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:  
Motor vehicle accident.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
50,000.00

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/21/2018

SIGNATURE OF ATTORNEY OF RECORD

Ben Tulse

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

1460-105224

BENEDICT MCGILL

vs.

DAVON L. CARROLL AND ESHAI CORP.  
D/B/A COURIER DISTRIBUTION SYSTEMS

CIVIL ACTION

NO.

**NOTICE OF FILING NOTICE OF REMOVAL**  
**TO THE UNITED STATES DISTRICT COURT FOR THE EASTERN**  
**DISTRICT OF PENNSYLVANIA**

TO: Timothy A. Berger, Esquire  
Paul, Flandreau & Berger, LLP  
320 West Front Street  
Media, PA 19063

**PLEASE TAKE NOTICE** that Davon L. Carroll and Eshai Corp. d/b/a Courier Distribution Systems, in the matter of Benedict McGill vs. Davon L. Carroll and Eshai Corp. d/b/a Courier Distribution Systems, originally pending in the Court of Common Pleas in the County of Bucks, Pennsylvania, under Docket No. 2018-01782, file in the United States District Court for the Eastern District of Pennsylvania, their Notice of Removal of said cause to the Eastern District of Pennsylvania. A copy of the Notice of Removal is attached hereto and served herewith.

**MARKS, O'NEILL, O'BRIEN,  
DOHERTY & KELLY &, P.C.**

By



Benjamin J. Tursi, Esquire  
Attorney I.D. No.: 206999  
One Penn Center  
1617 JFK Boulevard, Suite 1010  
Philadelphia, PA 19103  
215-564-6688  
Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

1460-105224

BENEDICT MCGILL

vs.

DAVON L. CARROLL AND ESHAI CORP.  
D/B/A COURIER DISTRIBUTION SYSTEMS

CIVIL ACTION

NO.

**NOTICE OF REMOVAL**

AND NOW, Defendants, Davon L. Carroll and Eshai Corp. d/b/a Courier Distribution Systems, by and through their attorneys, MARKS, O'NEILL, O'BRIEN, DOHERTY & KELLY, P.C., hereby remove the above-captioned case to this Honorable Court and provide notice of same to counsel representing the Plaintiff. In support of the removal, the Defendants aver as follows:

1. The present action is removable from the Court of Common Pleas of Bucks County to this Court pursuant to 28 U.S.C. § 1441 (a) because: (a) there is complete diversity between the parties; and (b) a "reasonable reading" of the Complaint suggests that Plaintiff, Benedict McGill, is claiming an amount in controversy that exceeds \$75,000.00. See 28 U.S.C. § 1332; Rigney v. Felcia, 433 F.Supp.2d 534, 536-37 (E.D. Pa. 2006) (holding that amount in controversy for purposes of removal based on 28 U.S.C. § 1332 is to be "ascertain[ed] from 'a reasonable reading' of the initial pleading ....") (quoting Angus v. Shiley, 989 F.2d 142, 146 (3d Cir. 1993)).
2. This is an action filed and now pending in the Bucks Court of Common Pleas, Docket No. 2018-01782.
3. A copy of Plaintiff's Complaint is attached hereto as Exhibit "A."

4. This action was instituted by Complaint in the Court of Common Pleas of Bucks County on or about March 28, 2018 by Plaintiff filing a Complaint at the above docket number.

5. This Notice of Removal is being filed within thirty (30) days after receipt by the Defendants of the initial pleading setting forth the claim for relief upon which this action is based in accordance with 28 U.S.C. §1446(b).

6. This is a civil suit and involves controversy between citizens of different states.

7. Plaintiff, upon information and belief, was at the time of the commencement of the above action a citizen of the Commonwealth of Pennsylvania.

8. Defendant, Davon L. Carroll, was at the time of the commencement of the above action a citizen of New Jersey.

9. Eshai Corp. d/b/a Courier Distribution Systems is a corporation organized and existing under the laws of Wisconsin, with its principal place of business at 4222 Milwaukee Street #18, Madison, Wisconsin 53714.

10. The Complaint does not seek a specific amount of monetary damages; rather, Plaintiff only avers in the Complaint that the damages sought are in excess of \$50,000.00.

11. Defendants allege and aver upon information and belief that the amount in controversy is in excess of \$75,000.00, exclusive of interests and costs.

12. Based on Plaintiff's allegations, one "reasonable reading" of the Complaint suggests that Plaintiff is seeking in excess of \$75,000. Rigney, 433 F.Supp.2d at 536-37.

13. The above-described Civil Action is one in which this Honorable Court has original jurisdiction pursuant to Title 28 United States Code Section 1332 based upon the fact that there exists diversity of citizenship between the parties and the amount in controversy is in excess of \$75,000.00, exclusive of interests and costs, and is accordingly one which may be

removed to this Honorable Court by Notice pursuant to Title 28, United States Code, Section 1441.

14. Promptly after filing this Notice of Removal in this Honorable Court, a copy of this Notice of Removal will be filed with the Court of Common Pleas of Bucks County, Commonwealth of Pennsylvania, in accordance with 28 United States Code, Section 1446(d).

15. Copies of all process, pleadings, and orders served upon Defendants as of the time of this removal are attached hereto in accordance with 28 United States Code, Section 1446(a).

16. Defendants have contemporaneously with the filing of this Notice of Removal given written notice to Plaintiff's counsel.

**WHEREFORE**, Defendants respectfully request that this action, currently docketed in the Court of Common Pleas of Bucks County be removed to the United States District Court for the Eastern District of Pennsylvania.

**MARKS, O'NEILL, O'BRIEN,  
DOHERTY & KELLY &, P.C.**

By



Benjamin J. Tursi, Esquire  
Attorney I.D. No.: 206999  
One Penn Center  
1617 JFK Boulevard, Suite 1010  
Philadelphia, PA 19103  
215-564-6688  
Attorney for Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

1460-105224

BENEDICT MCGILL

vs.

DAVON L. CARROLL AND ESHAI CORP.  
D/B/A COURIER DISTRIBUTION SYSTEMS

CIVIL ACTION

NO.

**CERTIFICATE OF SERVICE**

I hereby certify that this **21<sup>st</sup> day of June 2018**, a true and correct copy of  
the Defendants' Notice to Remove was served on all parties of record by first class mail, postage  
prepaid.

**MARKS, O'NEILL, O'BRIEN,  
DOHERTY & KELLY &, P.C.**

By Ben Tursi

Benjamin J. Tursi, Esquire  
Attorney I.D. No.: 206999  
One Penn Center  
1617 JFK Boulevard, Suite 1010  
Philadelphia, PA 19103  
215-564-6688  
Attorney for Defendants



UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 201 Woodbourne Road, Levittown, PA 19056

Address of Defendant: 26 Bryn Mawr Ave., Trenton, NJ 08618 and 4222 Milwaukee Street, #18, Madison, WI 53714

Place of Accident, Incident or Transaction: Langhorne-Newtown Road, Route 413 approaching Route 322 in Middletown Township, Bucks County, PA

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)).

Yes ☐ No **X**

Does this case involve multidistrict litigation possibilities?

Yes ☐ No **X**

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No **X**
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No **X**
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No **X**
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes ☐ No **X**

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases  
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. **X** Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify)

### ARBITRATION CERTIFICATION

(Check appropriate Category)

I, \_\_\_\_\_, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: \_\_\_\_\_

Attorney-at-Law

Attorney I.D.#

**NOTE:** A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 6/21/18

Bon Tusi  
Attorney-at-Law

206999  
Attorney I.D.#

CIV. 609 (5/2012)



## CASE MANAGEMENT TRACK DESIGNATION FORM

1. ☐ 2. ☐ 3. ☐ 4. ☐ 5. ☐ 6. ☐ 7. ☐ 8. ☐ 9. ☐ 10. ☐ 11. ☐ 12. ☐ 13. ☐ 14. ☐ 15. ☐ 16. ☐ 17. ☐ 18. ☐ 19. ☐ 20. ☐ 21. ☐ 22. ☐ 23. ☐ 24. ☐ 25. ☐ 26. ☐ 27. ☐ 28. ☐ 29. ☐ 30. ☐ 31. ☐ 32. ☐ 33. ☐ 34. ☐ 35. ☐ 36. ☐ 37. ☐ 38. ☐ 39. ☐ 40. ☐ 41. ☐ 42. ☐ 43. ☐ 44. ☐ 45. ☐ 46. ☐ 47. ☐ 48. ☐ 49. ☐ 50. ☐ 51. ☐ 52. ☐ 53. ☐ 54. ☐ 55. ☐ 56. ☐ 57. ☐ 58. ☐ 59. ☐ 60. ☐ 61. ☐ 62. ☐ 63. ☐ 64. ☐ 65. ☐ 66. ☐ 67. ☐ 68. ☐ 69. ☐ 70. ☐ 71. ☐ 72. ☐ 73. ☐ 74. ☐ 75. ☐ 76. ☐ 77. ☐ 78. ☐ 79. ☐ 80. ☐ 81. ☐ 82. ☐ 83. ☐ 84. ☐ 85. ☐ 86. ☐ 87. ☐ 88. ☐ 89. ☐ 90. ☐ 91. ☐ 92. ☐ 93. ☐ 94. ☐ 95. ☐ 96. ☐ 97. ☐ 98. ☐ 99. ☐ 100. ☐

NO.

100

**Figure 1**

200

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**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

**Davon L. Carroll and Eshai Corp.**  
**Attorney for**

### E-Mail Address

**EXHIBIT A**

Jun. 15. 2018 12:28AM

No. 7055 P. 12

PAUL, FLANDREAU & BERGER, LLP  
 BY: TIMOTHY A. BERGER, ESQUIRE  
 I.D. NO.: 72954  
 320 West Front Street  
 Media, PA 19063  
 (610) 565-4750

Attorney for: Plaintiff

IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA  
 CIVIL ACTION - LAW

BENEDICT MCGILL  
 201 WOODBOURNE RD.  
 LEVITTOWN, PA 19056  
 Plaintiff

No.

v.

DAVON L. CARROLL  
 26 BRYN MAWR AVE.  
 TRENTON, NJ 08618

and

ESHAI CORP, d/b/a  
 COURIER DISTRIBUTION SYSTEMS  
 4222 Milwaukee Street, #18  
 Madison, WI 53714  
 Defendants

COMPLAINT

1. Plaintiff is Benedict McGill, an adult individual domiciled at the time of the accident at 201 Woodbourne Road, Levittown, PA 19056.
2. Defendant is Davon L. Carroll, an adult individual domiciled at 26 Bryn Mawr Avenue, Trenton, NJ 08618.
3. Defendant is ESHAI Corp. d/b/a Courier Distribution Systems (hereinafter referred to as "ESHAI"), a Wisconsin corporation with a Wisconsin registered office of 4222 Milwaukee Street, #18, Madison, WI 53714 and a registered office in Pennsylvania at 933<sup>rd</sup> Brodhead Road, Coraopolis PA 15108.

4. The Court of Common Pleas has jurisdiction and venue since the actions of Defendants that gave rise to this matter occurred in Bucks County, Pennsylvania.

#### BACKGROUND

5. The facts and occurrences that give rise to the present action took place on or about May 10, 2016 at approximately 12:17 P.M. at Langhorne-Newtown Road, Route 413 approaching Route 322 in Middletown Township, in Bucks County, Pennsylvania.

6. At the aforesaid time and place, Plaintiff Benedict McGill, was operating a 2011 Ford Ranger, traveling North on Langhorne-Newtown Road, Route 413 approaching Route 332.

7. At the aforesaid time and place, Defendant Mr. Carroll, was directly in front of Plaintiff while operating a 2015 Nissan, traveling North on Langhorne-Newtown Road, Route 413 approaching Route 332.

8. Upon information and belief, the 2015 Nissan, operated by Defendant Davon L. Carroll was owned by Defendant ESHAI, which also employed Defendant Davon L. Carroll.

9. As Plaintiff was stopped at a red signal, Defendant Mr. Carroll, backed up, making contact with the front bumper of Plaintiff's vehicle.

10. The accident and the resulting injuries were not caused or contributed to by any act or failure to act on the part of Plaintiff Benedict McGill.

11. As a direct and proximate result of the negligence and carelessness of Defendants, which negligence and carelessness is more fully set forth hereafter, Plaintiff Benedict McGill, sustained serious and permanent personal injuries, including but not limited to:

- (a) cervical strain;
- (b) left knee sprain with pain radiating down the front of his leg to his ankle and left foot;

Jun. 15. 2018 12:29AM

No. 7055 P. 14

- (c) lumbar radiculopathy;
- (d) anterior chest wall pain; and
- (e) incarcerated ventral hernia.

12. As a direct and proximate result of Defendants' negligence as set forth more fully hereafter, Plaintiff, Benedict McGill, has in the past and may in the future be obligated to receive and undergo medical care and treatment in an effort to alleviate and/or cure the aforesaid injuries and has incurred and may incur in the future substantial additional expenses for such medical care and treatment.

13. As a direct and proximate result of the injuries that Plaintiff Benedict McGill sustained due to Defendants' negligence as more fully set forth hereinafter, Plaintiff has suffered and will continue to suffer mental anguish, emotional distress, embarrassment, anxiety, fear, concern, physical impairment, disability, inconvenience, great physical pain and suffering, for all of which he makes a claim for damages.

14. As a direct and proximate result of the injuries that Plaintiff Benedict McGill sustained and due to Defendants' negligence, Plaintiff has suffered and will continue to suffer dramatic impairment in his ability to enjoy life and life's pleasures, and to attend to his usual and customary activities, duties, and affairs, for which impairment he makes a claim for damages.

15. As a direct and proximate result of the injuries that Plaintiff Benedict McGill sustained due to Defendants' negligence as more fully set forth hereinafter, Plaintiff has suffered and will continue to suffer a loss of income and/or earning power, for which he makes a claim for damages.

16. At all times material to this action, Plaintiff Benedict McGill had elected the full tort insurance option and is thus eligible to seek compensation for non-economic loss.

COUNT I

PLAINTIFF BENEDICT MCGILL V. DAVON L. CARROLL

17. Plaintiff Benedict McGill hereby incorporates by reference as if set forth herein the averments in Paragraphs 1 through 16 above.

18. The injuries suffered by Plaintiff Benedict McGill were a direct and proximate result of the negligence and carelessness of Defendant Mr. Carroll, which negligence and carelessness consists of but is not limited to the following:

- (a) failing to obey a properly functioning traffic signal;
  - (b) failing to yield the right of way;
  - (c) failing to be attentive to motor vehicle operators on the roadway, including Plaintiff Benedict McGill;
  - (d) operating his vehicle at an excessive rate of speed under the circumstances;
  - (e) failing to have the vehicle under proper and adequate control;
  - (f) negligently applying the brakes;
  - (g) failing to operate the brakes in such a manner that his vehicle could be stopped in time to avoid the collision;
  - (h) failing to operate said vehicle in a manner that would allow him to stop within an assured, clear distance ahead;
  - (i) operating the vehicle at an unsafe speed;
  - (j) failing to observe the care and caution required under the circumstances;
- and

(k) operating his vehicle in a manner violating the motor vehicle codes of the Commonwealth of Pennsylvania.

WHEREFORE, Plaintiff Benedict McGill respectfully demands judgment in his favor and against Defendant Davon L. Carroll in an amount in excess of FIFTY THOUSAND Dollars (\$50,000.00) plus costs, damages for delay, and applicable post-verdict interest.

COUNT II

PLAINTIFF BENEDICT MCGILL V. DEFENDANT ESHAI CORP. D/B/A COURIER  
DISTRIBUTION SYSTEMS

19. Plaintiff hereby incorporates by reference as if set forth herein the averments in Paragraphs 1 through 18, above.

20. Plaintiff hereby avers that at the aforesaid time and place and at all times relevant hereto, Defendant Davon L. Carroll was acting as an agent, employee, workman and/or servant of Defendant ESHAI and was acting within the course and scope of his employment, rendering Defendant ESHAI liable for Defendant Davon L. Carroll's negligence as set forth above and as specified herein.

21. At all times pertinent to this action, Defendant Davon L. Carroll was the agent, employee, workman and/or servant of Defendant ESHAI and was acting within the course and scope of his employment, rendering Defendant Davon L. Carroll liable for Defendant Davon L. Carroll's negligence as set forth above and as specified herein.

22. The injuries suffered by Plaintiff Benedict McGill were a direct and proximate result of the negligent, reckless, and careless conduct of Defendant ESHAI, which conduct consisted of but is not limited to the following:

(a) entrusting its motor vehicle to Defendant Davon L. Carroll for use when it knew or in the exercise of reasonable care should have known that Defendant Davon L. Carroll



was incapable of operating said motor vehicle safely;

(b) entrusting its motor vehicle to Defendant Davon L. Carroll for use when it knew or in the exercise of reasonable care should have known that Defendant Davon L. Carroll was or may have been an incompetent and/or an unsafe driver; and

(c) failing to have or failing to utilize proper screening procedures to obtain properly skilled and competent drivers for its vehicle.

WHEREFORE, Plaintiff Benedict McGill respectfully demands judgment in favor and against Defendant Eshai Corporation d/b/a Courier Distribution Systems in an amount in excess of FIFTY THOUSAND Dollars (\$50,000.00) plus costs, damages for delay, and applicable post-verdict interest.

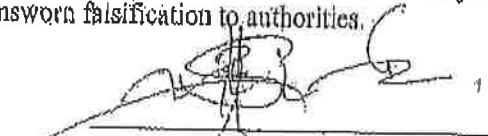
PAUL, FLANDREAU & BERGER, LLP

By: 

TIMOTHY A. BERGER, ESQUIRE  
Counsel for Plaintiff

VERIFICATION

I, Benedict McGill, swears and/or affirms and verifies that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

  
BENEDICT MCGILL